

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

GEORGE WILLIAM MONTGOMERY,	§	
TDCJ-CID NO.1699766,	§	
Plaintiff,	§	
v.	§	CIVIL ACTION NO. H-11-2977
	§	
LT. DONALD KRAMER,	§	
Defendant.	§	

ORDER OF DISMISSAL

Plaintiff filed a civil rights complaint on August 12, 2011, but did not submit the filing fee or an application to proceed *in forma pauperis* and a certified copy of his inmate trust fund account statement. The Clerk informed plaintiff by a Notice of Deficient Pleading of the deficiency and directed him to submit within thirty days the filing fee or the pauper's affidavit and a certified copy of his inmate trust fund account and an amended complaint using the attached forms. (Docket Entry No.6). The Clerk cautioned plaintiff that his failure to comply may result in dismissal of the case. (Id.).

Plaintiff submitted an amended complaint and two applications to proceed *in forma pauperis* on the appropriate forms. (Docket Entries No.8, No.11). He has not, however, submitted a certified copy of his inmate trust fund account statement or the \$350.00 filing fee.

On October 26, 2011, the Court ordered plaintiff to show cause by written response within twenty (20) days for his failure to submit the full filing fee or a certified copy of his trust fund

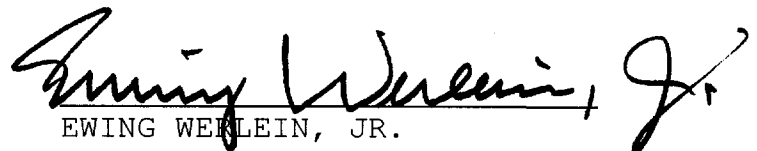
account statement with his response. Plaintiff was again "cautioned that his failure to comply may result in dismissal of this action."

Plaintiff has not complied with the Show Cause Order and the deadline for compliance has now expired. Plaintiff's failure to pursue this action forces the Court to conclude that he lacks due diligence. Therefore, under the inherent powers necessarily vested in a court to manage its own affairs, this Court determines that dismissal for want of prosecution is appropriate. See FED. R. CIV. P. 41(b); Woodson v. Surgitek, Inc., 57 F.3d 1406, 1417 (5th Cir. 1995). The plaintiff is advised, however, that upon a proper showing, relief from this order may be granted in accordance with Rule 60(b) of the Federal Rules of Civil Procedure.

Accordingly, it is ORDERED that this action be DISMISSED without prejudice for want of prosecution. Plaintiff's applications to proceed *in forma pauperis* (Docket Entries No.8, No.11) are DENIED. All other pending motions are DENIED.

The Clerk shall provide a copy of this order to the plaintiff.

SIGNED at Houston, Texas, on November 30, 2011.

  
EWING WERLEIN, JR.  
UNITED STATES DISTRICT JUDGE